



April 13, 2000

Sheriff Chris Hamilton
Montague County Sheriff's Office
P.O. Box 127
Montague, Texas 76251

OR2000-1470

Dear Mr. Hamilton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134551.

Montague County (the "county") received a request for a specific incident report. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). This provision only applies to a criminal case that *has concluded* and that did not result in conviction or deferred adjudication. *Id.*

You state that the requested information pertains to a criminal investigation "that did not result in conviction or deferred adjudication." Furthermore, the submitted incident report indicates that its status is "closed" and that no criminal case was filed. Based on your representation and our review of the submitted report, we conclude that the report pertains to a criminal investigation that has concluded and that did not result in a conviction or deferred adjudication. Accordingly, we find that the submitted report is subject to section 552.108(a)(2).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the

531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you must release the type of information that is considered to be front page offense report information to the extent that it appears in the requested report. Accordingly, with the exception of the basic front page offense report information, you may withhold the report from disclosure based on section 552.108(a)(2). Although section 552.108(a)(2) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law.¹ See Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

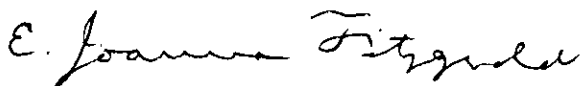
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

¹We note that the "Supplement Narrative" portion of the submitted report may contain confidential information concerning a juvenile. See Fam. Code § 58.007. However, because the report does not provide the date of birth of the person in question, we are unable to make this determination.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 134551

Encl: Submitted documents

cc: Mr. Ronald D. Moore
American Images
2301 Pennings Circle
Santa Fe, New Mexico 97154
(w/o enclosures)